

DEC 15 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CERVANDO TORRES-BINVINUTI,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-71923

Agency No. A073-870-291

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 1, 2008^{**}

Before: GOODWIN, CLIFTON and BEA, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order affirming without opinion the Immigration Judge's ("IJ") decision, finding

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

petitioner ineligible for cancellation of removal and adjustment of status.

Respondent's unopposed motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

The BIA did not abuse its discretion in affirming the IJ's denial of petitioner's applications for cancellation of removal and adjustment of status because petitioner is statutorily ineligible for such relief in light of his controlled substance conviction under California Health and Safety Code section 11550(a). *See* 8 U.S.C. §§ 1182(a)(2)(A)(i)(II), (h); 8 U.S.C. § 1229b(b); 8 U.S.C. § 1255(a). The BIA also did not abuse its discretion in affirming the IJ's denial of petitioner's motion for a continuance. *See Gonzalez v. INS*, 82 F.3d 903, 908 (9th Cir. 1996).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.